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7200 Sears Tower, Chicago, Illinois 60606
Telephone (312) 876-1000 Twx 910-221-2463

WASHINGTON OFFICE:

1101 Connecticut Avenue, N.W., Washington, D.C. 20036
Telephone (202) 857-0600

Site:	Methu
ID #:	MD98063306
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July 8, 1987

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JUL 16 1987

CMPL SECTION

VIA FEDERAL EXPRESS

Mr. Scott Pemberton, Esq.
United States Environmental
Protection Agency
Office of Regional Counsel
726 Minnesota Avenue
Kansas City, Kansas 66101

Re: Rose Chemicals, Inc., Holden, Missouri

Dear Mr. Pemberton:

I am pleased to send you the fifth updated mailing on the status of the Rose site which was sent to identified PRPs on July 16, 1987. Please contact me if you have any questions or comments.

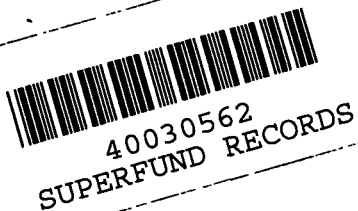
Sincerely,



Russell B. Selman

RBS:pri

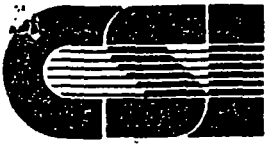
Attachment



EPA-CNSL

JUL 10 1987

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CLAN SITES INC

1199 NORTH FAIRFAX STREET / ALEXANDRIA VIRGINIA 22314 / 703-683-8522

TELECOPIER NO. 703-548-8773

MIDWEST REGIONAL OFFICE. 1400 E. TOUHY AVENUE / SUITE 215 / DES PLAINES, IL 60018 / 312-635-7580

MEMORANDUM

TO: POTENTIALLY RESPONSIBLE PARTIES (PRPs) FOR PCB
MATERIALS SHIPPED TO ROSE CHEMICALS SITE

FROM: JIM KOHANEK *J.K.*
NANCY NEWKIRK *N.W.*

DATE: JUNE 16, 1987

SUBJECT: THIS MAILING

This mailing contains the 5th update on the status of the Rose site and of the PRP Group's activities, along with ten attachments. As part of our services to the Group we prepared and distributed this packet to keep you informed of events related to the Rose site.

Please call either of us if you have any questions about matters discussed herein or about activities relating to Rose generally.

JJK/NWN/cal

Enclosures

MEMORANDUM

TO: POTENTIALLY RESPONSIBLE PARTIES (PRPs) FOR PCB MATERIALS SHIPPED TO ROSE CHEMICALS SITE

FROM: JENE L. ROBINSON, CHAIRMAN
JAY PRUETT, VICE CHAIRMAN
ROSE CHEMICALS STEERING COMMITTEE

DATE: JUNE 16, 1987

SUBJECT: STATUS OF ROSE CHEMICALS SITE AND OF THE ACTIVITIES OF THE PRP GROUP - 5th MAILING

NOTES: JULY 20 DEADLINE FOR WASTE-IN COMMENTS - See Below
JULY 21 STEERING COMMITTEE MEETING OPEN - See Below

This mailing will bring you up to date on significant developments involving the Rose site and the work of the potentially responsible parties (PRP) Group (Group) since the last mailing.

The Steering Committee and Clean Sites, Inc. (CSI) are very pleased with the level of financial participation and cooperation by the PRPs in the Group. As is discussed in further detail below, approximately 70% of the PRPs that have been notified by CSI of their involvement at Rose have contributed to the Rose Chemical Administrative Fund in response to the Steering Committee's assessments. For those PRPs that have not yet done so, we strongly urge you to respond to and participate in the Group's efforts to cleanup the Rose site. Both the Steering Committee and EPA have expressed the strong intention to seek contribution from every PRP involved at Rose.

Please contact either Jim Kohanek or Nancy Newkirk at CSI (703-683-8522) or members of the Steering Committee with any questions you may have.

RECENT SITE RELATED DEVELOPMENTS

1. 103 empty sodium drums were shipped offsite to Trade Waste Incineration Inc., Sauget, Illinois for disposal on December 17, 1986. Small cans full of sodium that had been stored in the sodium locker were overpacked in a lab pack drum for shipment. The Uniform Hazardous Waste Manifest for this shipment was signed by John R. Stonitsch, Trustee for the Bankruptcy Estate of Martha C. Rose Chemicals, Inc.
2. On February 25, 72 drums of hazardous materials (waste corrosive liquids, waste flammable liquids and stabilized waste sodium metal) were shipped from the Rose site to the SCA incinerator in Chicago, Illinois. The Uniform Hazardous

MEMORANDUM

June 16, 1987

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Waste Manifests required for these materials were also signed by the Trustee in Bankruptcy.

3. On March 12, 10,000 gallons of volatile liquids found in a tank on site were removed and transported to Chicago for incineration at SCA in Chicago, Illinois.
4. A secure storage area for samples taken from materials on site was established at the main warehouse at the site. Samples of liquids from drums, soil from drums and liquids from bulk storage tanks are stored in boxes on shelving in the room. Each sample jar is identified by a bar code label.
5. Initial surface soil sampling using a 50x50 foot grid has been completed. Samples were also taken from the pond berms. Areas identified as a result of the initial sampling as having concentrations of PCBs greater than 5 ppm were further sampled by splitting those grids into quarters and taking composite samples from each 25x25 foot section. In addition, air sampling was conducted and completed. Analysis of the samples has been completed. A Sampling Report will be issued within the next several weeks.
6. On March 10, representatives of the National Enforcement Investigating Center (EPA) and the FBI, who are conducting a criminal investigation into the Rose operations, visited the site to investigate rumors of buried materials behind the Main Building. The FBI brought a backhoe to excavate the area, they spread plastic under the dirt removed to avoid the possibility of spreading contamination. Photos and samples were taken. All excavated material was returned to the original location. Clean Sites, Inc. (CSI) and Chemical Waste Management (CWM), the contractor for Phase I site stabilization work at the site, were not involved in the investigation and are not aware of the results of this investigation.
7. The EPA returned a large, 40 foot boat from a junk yard site approximately 5 miles from Holden. The boat was positioned on timbers at the northeast corner of the South Warehouse. The boat is believed to belong to Walter Carolan. It had been removed from the site before the Group gained access to the site.
8. Additional site security was implemented by securing all doors and windows in the Main Building and South Warehouse.
9. Various activities identified by the CWM Professional Engineer as required for approval of the Spill Prevention Control and Countermeasure Plan are underway. These include spill containment dikes to be constructed with sandbags at several locations around tanks and clay capping portions of containment berms.

10. A minor emergency spill occurred one rainy night and was dealt with promptly and according to proper emergency procedures. At 1:00 a.m. April 15th, a security guard on a routine tour of the site discovered a small pin-hole sized leak from the discharge pipe of one of the tankers at the loading dock. Approximately 1-1/2 gallons was collected in a barrel between 2:00 and 3:00 a.m. The tanker was drained dry with 262 gallons removed. The EPA Response Center was notified as well as the Johnson County Dispatcher, who in turn, notified the Holden Police so that they would understand the reason for the activity at Rose. It is highly unlikely that the leak started much before 1:00 a.m. since the security guard had made his round in that area at 12:35 a.m. The total spill was estimated to be between 1 and 1-1/2 gallons.
11. A demonstration of fighting fires with foam and dry chemicals was arranged by the CSI Project Manager for the Holden Volunteer Fire Department. Olympic Fire of Independence, Mo. presented firefighting seminars on May 7 and May 21, 1987. The firemen received hands-on training as well as classroom presentations and discussions at a location off the site. All the site security people attended a session and each security guard was trained in emergency fire response techniques using a 20-pound dry chemical extinguisher to put out a gasoline-diesel fuel fire in a mock-up of a drum storage area. A small wheeled foam jet cart has been purchased for use on the site. 30 gallons of foam concentrate are also available to be used with this unit. A Super Jet Foam Nozzle was presented to Holden Fire Chief Day at the end of the session.
12. General site cleanup, stabilization and restacking of drums and crates have been completed.
13. CWM's work is nearly completed and their workforce has been reduced from a high of about 18 people in mid-winter to two people who are completing various housekeeping tasks. CWM is expected to demobilize within the next few weeks.
14. A contract for emergency response coverage at the Rose site has been entered into by OHM, Inc. in St. Louis, MO.
15. The CSI Project Manager and Services Coordinator will remain at the site.

OTHER MATTERS

1. Regional Meetings

Regional meetings were held January 13, 14 and 15, 1987, in Washington D.C., Dallas-Ft. Worth, and Chicago respectively in order to update the PRP Group on developments relating to Rose and to enable them to meet and question members of the Steering Committee, the Technical and Legal Subcommittees, Schiff Hardin &

Waite (SH&W), common counsel to the Group, and the CSI Mediators. Over 200 different organizations on the Rose PRP list were represented at the three Regional meetings. It allowed those parties able to attend an opportunity to better know and understand the strategy and goals of the Committee as well as allowing the Committee representatives to hear the concerns of those PRPs that are less actively involved. The response from the majority of attendees indicated that the time spent was well worthwhile and gave them a better appreciation of the work taken on by these Committees. A copy of the agenda used for each of the three meetings is at Attachment A.

A. Organization - At each meeting a brief introduction was provided by Jene Robinson, Chairman of the Steering Committee (Jay Pruett in Dallas, Vice-chairman) which included a brief history of the Rose Chemicals Inc. operation and the formation of the Committees. (A copy of the latest committee listings is at Attachment B.) It was noted that the goal of the Group is to attempt to work out a settlement with the EPA for the clean-up of the Rose facility. Also, CSI presented slides of the site and conditions as they existed at the time. Some of the initial sampling results were reported from surface soil around the perimeter of the site, which were generally less than 25 ppm (parts per million) in PCB.

B. Group Reports - The various groups involved with the Rose site project were given an opportunity to discuss their roles and the status of activities in which they were involved.

Steering Committee - This group has been established to handle policy and organization matters. Its members generally consist of those companies with greater than 1% of waste shipped to the site, as well as representatives of other interests significantly involved as PRPs at Rose including:

Rural Cooperatives - Dick Sternberg, NRECA
Municipalities - John Teel, City of Garland, TX
Mid-sized generators - Bob Locke, Campbell's Soup
Small quantity generators - Tim Rogers, American Can
Packaging, Inc.
Federal agencies - Gary Frey, Western Area Power
Administration

These interests have been brought together to provide representation to the whole group and work on behalf of all parties involved. It was emphasized that the funding for cleanup at the site would be based upon the expectation that every party would pay its fair share. This would be done through the allocation formula. Also, fiscal oversight would be provided through an Audit Subcommittee headed by Dick Sternberg, in order to audit funds spent in activities directed toward cleanup.

Technical Subcommittee - This group has been assigned to oversee all technical issues related to site work including proposals setting forth preferred methods for disposal of wastes at the Rose Site. As a part of the presentation, the Technical Subcommittee representative discussed the work being performed at the site under an Administrative Order with EPA regarding site stabilization and inventory of materials (Phase I). The Subcommittee is also concerned with future activities and some potential ideas to be considered in planning and scheduling for the ultimate disposal of generator waste material from the site were also presented. An approach being considered for future discussions with EPA could be limited to handling only on-site materials contained in the buildings (Phase II). The Subcommittee representative noted that very little was known about subsurface conditions at the site or any off-site migration. This Subcommittee has also been assigned the task of developing the cost allocation formula, which was discussed separately.

Legal Subcommittee - In his report to the Rose PRPs Gary Johnson, as Chairman of the Legal Subcommittee, stated that the role of this group was to review all legal matters relating to the project. This included the review of all agreements with consultants or contractors as well as any agreements that may be entered into with the EPA toward site clean-up. He also indicated that they were presently working with various PRPs in handling responses to insurance carriers. Also, a presentation was made by SH&W, as counsel to the Steering Committee, on the status of their discussions with EPA to date. This included a brief overview of the new Superfund Act (SARA) and its application to the Rose site.

CSI - In its report, CSI outlined the various services provided by it to the Rose PRPs including assistance in the correspondence control, assisting in the allocation development and site management. A cost report was provided to the group including a forecast to carry the project through Phase I (An updated Expenditure and Commitment Profile included as Attachment C.). Finally, a review of the community relations program was provided along with a general discussion of the importance of maintaining the cooperation of the City of Holden in this matter.

Allocation Report - CSI also reviewed the background work performed in analyzing the Rose documents which resulted in the Interim Waste-In List that was sent to most PRPs. This led into the discussion of the Draft Allocation Formula, which had been developed by the Allocation Work Group, and which was handed out to the participants and subsequently mailed to all PRPs for comment.

C. Discussion - At the end of the presentations, participants questioned the panel regarding their particular

concerns. Many of the questions focused on the Draft Allocation Formula as well as issues which are still pending as to potential buy-out options. Other areas reviewed included the status of the Rose bankruptcy proceeding and the potential agreements needed to be entered into with EPA.

2. Waste-In Records

On December 22, 1986, most of the 675 generators that had been identified by CSI as having sent waste to the Rose site were sent a mailing by CSI which included an "Interim Waste-In Report" (December 18, 1986) and a computer print-out of each entity's own records compiled from the Rose generator logs. Subsequently other PRPs have been sent similar information as this became available. Each entity was asked to respond to CSI with any questions or corrections that needed to be made to its waste-in record.

To date, CSI has received approximately 100 written responses. These were handled in the following manner. CSI gathered background information for each waste-in letter from the Rose files including 104(e) responses, the Rose generator logs (from which the information in the interim waste-in list was taken), manifests, and other internal Rose documents. After reviewing this information and the information supplied by the PRP in support of his waste-in letter, CSI determined whether the waste-in discrepancy was due to: (a) a typographical error in the Interim Waste-In list made by the temporary data entry person who entered the data from the Rose logs into the waste-in data base, (b) an interpretive error in the units of measure for the material in question (i.e., mistaking kilograms for pounds) made by the temporary data entry person who entered the data from the Rose logs into the waste-in data base, (c) some other difference between the PRP's records and the information in the Rose logs. CSI was authorized by the Technical Subcommittee to make changes in cases (a) and (b) in the PRP's waste-in list based on the Rose logs which were assumed to be correct, when the information in the PRP's Interim Waste-In was not identical to the information on the Rose logs. When an adjustment to a PRP's waste-in list was required, CSI made that adjustment to the Rose waste-in data base and mailed the revised waste-in printout along with an explanatory letter to the PRP.

In case (c) above, CSI was directed to consult with the Records Review and Reconciliation Task Group (RRR) of the Rose Technical Subcommittee. After discussion, the RRR then voted on whether to accept or reject the proposed adjustment to each PRP's waste-in list based on its decision making criteria, at Attachment D. The RRR Task Group vote was submitted to the Technical Subcommittee for its approval. CSI then notified each PRP of the RRR's decision and sent copies of the decision making criteria to those PRPs whose claims were rejected so that they could resubmit additional information if available.

This waste-in review process has been going on for the last six months. With respect to all PRPs that received their waste-in information from CSI prior to June 1, 1987, you are hereby advised that the deadline for submitting any comments you may have on your waste-in is July 20. Comments must be in writing and submitted to Jim Kohanek or Nancy Newkirk at CSI postmarked by July 20. If you have already commented in writing, but have not received a final response, this deadline does not affect you and your comments are being addressed and a response will be forthcoming.

3. Allocation Formula

On February 6, 1987, the Draft Cost Allocation Formula was mailed to all PRPs on the mailing list for review and comment. Included in that package were the following backup materials: a January 9, 1987 version of the draft allocation formula; minutes of the Technical Subcommittee of December 16, 1986; a December 1, 1986 memo from Harry Walton to the Rose Chemical Technical and Legal Subcommittees on the draft allocation formula with three attachments; an August 26, 1986 letter from Harry Walton to Lester Burris transmitting the draft allocation formula - alternative #1; and an August 6, 1986 memo from Harry Walton to the Rose Chemical Technical Subcommittee on the Draft Allocation Formula transmitting four draft formulas.

Approximately 40 written comments were received from the PRPs on the draft allocation formula. These comments were reviewed and discussed by the Allocation Task Force at a meeting held on March 26, 1987. A report of the Task Force to the Technical Subcommittee summarizing the comments received and the Task Force's deliberations is included in Attachment E.

The Legal Subcommittee discussed the draft allocation formula and comments received at its April 7 meeting and formed a task group to review the formula in detail and make necessary revisions. That task group conducted two lengthy conference calls on the draft allocation formula on April 10 and April 16. The draft allocation formula was subsequently reported back to the Technical Subcommittee by the Legal Subcommittee with certain recommended revisions.

The Technical Subcommittee held a conference call on April 23, to discuss the changes proposed by the Legal Subcommittee and some other revisions proposed by members of the Technical Subcommittee.

At its April 29 meeting, the Technical Subcommittee reviewed and approved a revised allocation formula developed by the Task Force in response to the comments received. The Technical Subcommittee reported out the revised allocation formula to the Rose Steering Committee.

The Rose Steering Committee approved the cost allocation formula as revised and discussed at its April 30, 1987 meeting.

The Cost Allocation Formula as approved by the Steering Committee is included at Attachment E. This Formula applies to generators only. The allocation of costs to other PRPs, i.e., transporters, brokers, etc., has not yet been addressed. Nor has the concept of buyouts.

4. Rose Site Inventory

A computerized inventory of all PRP-sent materials on site has been completed and bar code labels have been placed on each container or piece of equipment. Several inventory reports can be generated from the information in the data base. These reports show the type of container, type of contents, the weight of material in the container, the number of labels, and, if available, manifest number and received or storage date. The information in the data base has been transferred to the CSI Alexandria office and will be integrated into the existing Rose data base created from original Rose records. The inventory contains a total of 10,128 records.

An inventory report is being prepared by CSI and is expected to be ready in mid-summer.

Samples were taken from all drums and tanks and are stored on site.

In summary, PRP-sent PCB materials at the site include:

(a) Drums

Soils	215
Sludges	340
Whole capacitors	498
Capacitor cores	1476
Capacitor parts	117
Liquids	3767
Misc. (bags, absorbent, etc.)	<u>463</u>
Total Drums	7876

(b) Crates (generally 4x4x8 ft.)

Soil	26
Transformer parts	225
Whole capacitors	569
Capacitor cores	349
Capacitor parts	55
Misc. debris (rags, etc.)	<u>241</u>
Total Crates	1464

(c) Transformers 706

(d) Tanks of liquids 55

(e) 5400 Sample Jars (soils, liquids and sludges)

(f) 1,020,000 lbs. (estimated) Capacitor Cores in bag room

These PCB materials have been divided into nine waste streams as follows:

- | | |
|--------------------------|-----------------------|
| (1) Soils | 791,310 lbs. |
| (2) Sludges | 182,346 lbs. |
| (3) Transformers | 1,887,756 lbs. |
| (4) Transformer parts | 160,905 lbs. |
| (5) Whole capacitors | 1,486,341 lbs. |
| (6) Capacitor cores | 2,002,261 lbs. |
| (7) Capacitor parts | 167,525 lbs. |
| (8) Liquids | 4,746,011 lbs. |
| (9) Miscellaneous debris | <u>2,034,640 lbs.</u> |

Total Inventory Weight 13,459,095 lbs.

5. Buyouts

The Steering Committee at its April 30th meeting directed the Legal and Technical Subcommittees to develop buyout concepts. In order to obtain preliminary information on site contamination for purposes of risk assessment, the Steering Committee directed that a preliminary geotechnical assessment of groundwater and subsurface soils be performed in June. This is currently underway.

6. Steering Committee Meetings

The Steering Committee (S.C.) has met twice since the last update, on January 28, and April 30, 1987. The following are significant developments resulting from those meetings.

A. January 28, 1987 -

(i) The S.C. invited the Western Area Power Administration (WAPA) to be a non-voting member of the S.C. to represent the concerns of the various Federal entities involved as PRPs at Rose. WAPA has accepted. The WAPA representatives appear on the lists of Committee members at Attachment B.

(ii) Central Illinois Public Service Co. (CIPSCO) declined the invitation of the S.C. to become a member. The S.C. voted to withdraw the offer to CIPSCO to join the S.C. and to invoice CIPSCO as any other generator at the \$0.10/lb. rate.

(iii) In response to questions raised at the Regional Meetings by several PRPs as to why this site was a Superfund site, and questions raised at the meetings and in telephone calls to CSI about the toxic torts law in Missouri, the S.C. directed SH&W to prepare memoranda addressing these issues for distribution to all Rose PRPs. These memoranda are at Attachment F.

(iv) The Technical Subcommittee Chairman reported that the Subcommittee was developing proposals for the scope of work

for the next phase of site activities to be addressed by the next agreement to be negotiated with EPA and various related technical materials. The Subcommittee Chairman further reported that various task forces in addition to the Allocation Task Force had been formed to deal with the scope of work for the next phase site activities and contracting matters for the next phase activities. The Technical Subcommittee also agreed to retain the services of Dr. Roy O. Ball of ERM - North Central, Inc. as a technical consultant.

(v) At EPA's request, the S.C. agreed to provide EPA with the names of those PRPs not cooperating financially with the S.C., after first notifying the PRPs of EPA's request and providing them a thirty day period to respond to the invoice. CSI was directed to re-invoice those PRPs that had not yet paid their assessed amounts, prior to the Steering Committee notifying EPA of those entities not cooperating.

B. April 30, 1987 -

(i) Membership on the S.C. - General Motors accepted the S.C.'s offer to become a large quantity member of the S.C. The S.C. was advised that Nebraska Public Power District and Iowa Power & Light had determined not to participate on the S.C. CSI was directed to invoice each of them for their waste into the site at the rate of \$0.10/lb. Savannah Electric, a mid-sized generator and an initial member of the S.C., by letter of April 14, 1987, resigned from the S.C. due to its company size, location and apparent financial responsibility. The company felt that the amount of time and effort volunteered by it to the various Rose committees placed a demand on company resources that was no longer necessary now that the Group was firmly launched and the work of the committees was well underway. It commended the Committee's efforts and pledged further support and financial support as necessary. Savannah had paid its assessment of \$56,000. The S.C. agreed to accept Savannah's resignation based on the fact that it was not a large generator as originally thought.

(ii) The S.C. Charter was amended. A copy of the amended Charter is at Attachment G.

(iii) The Audit Subcommittee reported its recommendation that the accounting firm of Coopers & Lybrand be retained as auditors of the Rose Chemical Administrative Fund and the cash management services of CSI. The S.C. accepted this recommendation. Coopers & Lybrand will be directed to contact CSI's controller to schedule the first audit.

(iv) The S.C. approved the Cost Allocation Formula as revised at its meeting. (Copy attached at Attachment E.)

(v) The S.C. discussed the need to raise \$700,000 to cover near-term costs. There was consensus that fundraising should be limited to the large quantity generators on the S.C. and that, at present, no effort should be made to assess additional funds from other PRPs in recognition of the burdens, administrative as well as financial, that such assessments impose. The S.C. also agreed to change from the earlier per capita contribution scheme, under which each large quantity generator had paid \$146,000 to the Rose Fund or an average of \$0.16/lb based on large quantity generator waste-in to the site. Instead the S.C. wanted to pay on the basis of individual waste-in to the site with a "catch up assessment" so that each of them would be paying the same amount per pound of waste-in to the site. The City of Colorado Springs the smallest "large quantity generator" on the S.C. was used as the base case. Colorado Springs' \$146,000 per capita contribution to the fund meant that it was paying at the rate of approximately \$0.41/lb. To move from "per capita" to "pounds of waste-in" with a "catch-up" assessment and in recognition that additional expenditures might be necessary for the next phase of site activities, the S.C. voted to assess its large quantity generator members a total of \$3,230,782, in increments as necessary. The first billing to be those amounts necessary to raise \$700,000. (See S.C. Assessment at Attachment H).

(vi) A Negotiating Team was authorized to commence negotiations with EPA regarding the scope of work for and the administrative order on consent covering the next phase of activities which is expected to be a removal of all PRP-sent materials at the site for proper disposal.

(vii) The S.C. directed the Technical and Legal Subcommittees to commence evaluating concepts for a potential buyout for certain small quantity generators. In order to better understand the risk of potential site contamination entailed in such a buyout, the performance of a preliminary geotechnical assessment of groundwater and subsurface soils was authorized.

(viii) Waste-in/New PRPs- There are 572 PRPs on the CSI waste-in data base generated from the Rose Generator logs. In addition, since certain of the Rose so-called generators are actually brokers or others in some contractual relationship with the original owners of the PCB materials, the list is being expanded to include customers of brokers and these "others". For example, CSI has a separate data base listing TSI's (a broker listed on the main data base as a generator) 70 customers. Consequently, we know of 642 PRPs involved with Rose. Furthermore, EPA recently identified another 65 new PRPs based on the 104(e) responses it received from the original PRPs and on invoices obtained from the Trustee in Bankruptcy. New PRPs are continuing to be identified. These will be added to CSI's data base. CSI was directed to notify newly identified PRPs and to invoice

them for \$200 each and to provide them with a complete packet of past group mailings. CSI will invoice them at the rate of \$0.10/lb. for those with more than 10,000 pounds of waste-in to the site when that information is available.

(ix) The S.C. agreed to open its meetings to those participating PRPs that are fully paid on their assessments to the Rose Administrative Fund. These PRPs will be able to attend S.C. meetings, on a nonparticipatory basis, that are not otherwise closed for confidential discussions in the Chairman's discretion. (See further discussion below).

(x) Budget and cash flow forecast information was discussed. This is discussed in detail below.

7. Budget and Expenditure and Commitment Profile

At the April 30, 1987 S.C. meeting, CSI reported that as of April 27, 1987, a total of \$3,479,171 had been invoiced for the Rose Chemical Site Administrative Fund; \$2,804,663 had been paid to date and \$674,508 was outstanding. A total 642 parties had been invoiced. All members of the Steering Committee had paid their assessments for a total of \$2,296,200. This amounted to 66% of the Fund and 80% of the project costs. Of the 625 other PRPs, 70% or 453 had paid their \$200.00 assessment. Of the 174 PRPs invoiced at \$0.10/lb., 61% or 106 had paid. The non-Steering Committee PRPs had paid a total of \$508,463.

Attached at Attachment C is an Expenditure and Commitment Profile showing costs, funds on hand and the excess/(deficiency) of funds spent for the Rose site cleanup from May 1986 through April 1987, and projected for the three month period May through July 1987.

Since the date of that meeting, approximately 65 newly identified PRPs have been invoiced for \$200 a piece. In addition, as explained elsewhere, the Steering Committee has assessed itself a total of an additional \$3,230,782 of which \$700,000 was invoiced in May. The total amount invoiced for the Fund as of June 11, 1987, is \$4,118,016.

In response to various questions raised by PRPs, the Steering Committee wishes to make clear that its members receive no compensation from the Rose Administrative Fund for their services and expenses except for reimbursement for unusual group expenses such as meeting rooms, rental of vans for occasional site visits, etc. No individual member's salary or out of pocket expenses are reimbursed. Pursuant to a contract between CSI and members of the Steering Committee, CSI handles and is paid for mass mailings, preparation of Steering Committee meeting minutes, distribution of most materials to Steering Committee and Subcommittee members as appropriate, and its coalescing, allocation and project management services. Payments to CSI, both headquarters and Holden field office, CWM, the Phase I contractor, ERM, the technical consultant, and SH&W, common

counsel to the Group, are reflected in the Expenditure and Commitment Profile.

8. PRP Attendance at Steering Committee Meetings

As mentioned elsewhere, at its April 30, 1987 meeting, the Steering Committee decided to open attendance at its regularly scheduled meetings to any PRP and/or its counsel, subject to certain administrative conditions as follows:

a. All invoices submitted by CSI on behalf of the Steering Committee to the PRP must be paid in full by the attending PRP. If the amount of the invoice is in bona fide dispute, then the undisputed amount must be paid.

b. Comments from all the attending PRPs to the Steering Committee will be restricted to a total of 30 minutes, and the time period will be included as an agenda item. Questions from attending PRPs must be directed to the Committee Chairman rather than to CSI, SH&W, or any Committee member. Each PRP should plan to limit comments, if any, to not more than five minutes.

c. The Steering Committee, through its Chairman, reserves the right to close the meeting at any time for the Committee to consider issues of a commercially sensitive or confidential nature. Attending PRPs may not attend the closed session.

d. Documents, reports or similar memoranda distributed among the Committee members will not be routinely distributed to attending PRPs. No confidential items will be made available to attending PRPs. Sound recording equipment or other documentary type equipment is prohibited.

e. The Committee has chosen to direct the Chairs of its Technical and Legal Subcommittees, and their respective working groups and task forces, to limit attendance at their meetings to representatives of Committee members, absent extenuating circumstances.

f. Please contact Jim Kohanek or Nancy Newkirk at CSI (703/683-8533) before any Steering Committee meeting for information as to its location, time, and date and to advise them as to the number of representatives you wish to have attend. Steering Committee meetings are generally held every three months.

The next meeting of the Steering Committee is currently scheduled for July 21, 1987 at St. Louis, Missouri.

9. Negotiations With EPA About Next Phase Activities

Negotiations are currently underway between the Steering Committee and EPA Region VII about the next phase administrative

order on consent and its scope of work. The Steering Committee expects that the next phase will include the removal and disposal of all PRP-sent PCB materials from the site including all drummed soils, solids, sludges, capacitors and parts, transformers and parts, liquids and miscellaneous debris.

The Regional Administrator has advised the Steering Committee that he wants these materials removed from the site by mid-summer. The Steering Committee anticipates that if negotiations go smoothly and efficiently it could have a contractor mobilized on site by September.

10. Audit Scheduled

The audit of the Rose Chemical Administrative Fund and CSI's cash management services is scheduled for June 22-30. The audit will be performed by Coopers and Lybrand at CSI's offices in Alexandria, Va.

11. Rose Transformers at B&B Salvage Company, Warrensburg, MO

According to EPA, on April 1, 1987, EPA Region VII conducted an inspection of the B&B Salvage Company facility in Warrensburg, Mo., after receiving a complaint from the City of Warrensburg. The City, in anticipation of obtaining the property, had taken samples at the property which indicated PCB contamination of the property. During the EPA inspection, representatives of B&B Salvage indicated that they had received drained transformers from Rose Chemicals Inc. for two and a half years. Oil-dry from various transformers was subsequently dumped on the ground within B&B's facility. EPA took photographs and samples of the property which in EPA's view indicated high levels of PCB contamination.

In late April, EPA informed SH&W of the existence of the transformers, believed by EPA to number approximately 150.

The Steering Committee and the Legal Subcommittee discussed the B&B situation at their meetings April 29 and 30. The consensus of opinion at that time was that without records formally indicating a connection between the B&B transformers and the Rose site and/or Rose PRPs, the Steering Committee should not voluntarily agree to any action at B&B.

On May 1st, SH&W received a letter from EPA, dated April 28, formally notifying the Group of the existence of the transformers at B&B and informing counsel that EPA has determined that the B&B situation warrants an immediate response. EPA requested that the Rose Steering Committee consider undertaking appropriate response actions at the site. EPA advised that if the Steering Committee declines to act, EPA will conduct a removal action under CERCLA (Superfund) which will include an extensive site evaluation and sampling, excavation of contaminated soil and removal of the drained PCB transformers. EPA also stated its intention to remove all PCB-contaminated materials back to the Holden (Rose) facility. EPA advised that records obtained from B&B Salvage and

discussions with B&B Salvage representatives indicate all the transformers were from Rose Chemicals. EPA offered to permit Steering Committee representatives to review the records in EPA's offices. EPA requested to be notified if the Committee decided to conduct "the appropriate actions" by May 5, 1987.

On May 7, counsel informed EPA that, at least at that time, the Steering Committee declined to take any action with respect to B&B Salvage and would not voluntarily accept any materials from B&B Salvage at the Rose site. In the Committee's view, the Rose site and the B&B site are wholly separate both legally and geographically and therefore EPA's attempt to link PRP liability from Rose to B&B is without basis.

SH&W has filed a Freedom of Information Act request with EPA for copies of the records linking the transformers at B&B with the Rose site or any Rose PRPs. To date, no information has been received.

Representatives of the Steering Committee have continued informal discussions with EPA about this matter and have requested copies of these records informally as well.

CSI has reviewed the documents obtained from the Rose facility last August for any information pertaining to B&B Salvage. The review was not performed on all 140,000 pages of documents that were copied (microfilmed) but was limited to the 40,000 pages of ledgers and generator records and disposal records that were hard copied and used as the basis for the development of the waste-in listing. CSI found no reference to B&B Salvage in those records.

The possible existence of transformers from Rose at other nearby locations obviously raises serious concerns for all members of the Group. The Steering Committee will keep you informed about this situation as it develops and as information is obtained that may show a link between the transformers at B&B and the Rose site or any Rose PRPs. At present, it is the Steering Committee's view that B&B Salvage has primary legal responsibility for any transformers on its property. The Steering Committee is continuing discussions with EPA on this matter, however. To date, EPA has not brought the transformers to the Rose facility.

12. State Water Pollution Suit Filed Against Rose

In early December 1986, the State of Missouri filed suit against Rose Chemicals, Walter C. Carolan, American Steel Works, W.C. Carolan Co., Inc., and Dust Suppression Systems, Inc. alleging pollution of a stream near Holden with PCBs and that Walter C. Carolan has transferred assets of Rose Chemicals among several other companies that he owns in violation of Missouri corporate law. A news article about this suit is at Attachment I.

An article about what it's like to be a PRP is attached for your amusement at Attachment J.

NOTE: For purposes of ensuring an accurate mailing list, please make any address or entity name corrections on the form below and return to Clean Sites, Inc., Rose Chemical Site, Attn: Jim Kohanek or Nancy Newkirk, 1199 N. Fairfax St., Alexandria, VA 22314

Name _____

Title _____

Company _____

Address _____

Phone No. _____

AGENDA

ROSE CHEMICAL-PCB SITE

January 13th
January 14th
January 15th

Washington, D.C.
Dallas, Texas
Chicago, Illinois

I. INTRODUCTIONS AND BACKGROUND

- A. Introductions
 - Jene Robinson
 - Jay Pruett
 - Nancy Newkirk
 - Jim Kohanek

B. Site Conditions

II. STEERING COMMITTEE REPORT

- Jene Robinson
- Jay Pruett (Dallas)

- A. Organization and Roles/Staffing
- B. Project Approach

III. TECHNICAL SUBCOMMITTEE REPORT

- Dick Sternberg - (D.C.)
- John Teel - (Dallas)
- Steve Winship (Chicago)

- A. Phase I - Site Stabilization & Inventory
(Contracting, Work Plans, Schedules, Past Cost)
- B. Pre-Phase II Activities
- C. Phase II - Site Cleanup

IV. LEGAL SUBCOMMITTEE REPORTS

- Gary Johnson
- Russ Selman

- A. Legal Subcommittee Report
- B. Administrative Order on Consent
- C. Negotiations with EPA
- D. Other Matters / Rose Chemical Bankruptcy

V. CLEAN SITES, INC. REPORT

- A. Role of CSI
- B. Project Organization/Staffing
- C. PRP Response
- D. Financial Status
- E. Community Relations

VI. ALLOCATION REPORT

- A. Document Review
- B. Allocation Formula

VII. QUESTIONS - DISCUSSION AND CONCLUSION

ROSE CHEMICAL
STEERING COMMITTEE
05/26/87

Large Quantity Generators

Mr. Jene L. Robinson (Chairman)
Illinois Power Company
500 S. 27th Street
Decatur, IL 62525
(217) 424-6834

FAX # 217-424-6978

Mr. Jay Pruett (Vice Chairman)
Southwestern Electric Power Company
P.O. Box 21106
Shreveport, LA 71156-0001
(318) 221-2604

(428 Travis Street
71101)

Mr. Carl Norton (Secretary)
West Texas Utilities
P.O. Box 841
Abilene, TX 79604
(915) 674-7238

(1026 North 3rd Street
79604)
FAX # 915-674-7611
(VOICE - 7212)

Mr. Bob Beck
Missouri Public Service
P.O. Box 11739
Kansas City, MO 64138
(816) 737-9340

(10700 E. 350 Highway
64138)
FAX # 816-737-9334

Mr. Lester Burris
Oklahoma Gas & Electric
Box 321, MC 1043
Oklahoma City, OK 73101
(405) 272-3245

(321 N. Harvey
73102)

Mr. Bob Fackler
KPL Gas Service
P.O. Box 889
Topeka, KS 66601
(913) 296-6515

(818 Kansas Ave.
66612)
FAX # 913-296-6596

Mr. Harold Faherty
Interstate Power Company
P.O. Box 769
Dubuque, Iowa 52004-0769
(319) 582-5421

(1000 Main Street
52001)
FAX # 319-557-2202

Steering Committee (cont'd)

Mr. Dave Dooley
Iowa Public Service Company
P.O. Box 778
Sioux City, Iowa 51102
(712) 277-7848

(401 Douglas Street
51101)
FAX # 712-277-7761

Mr. Tom Hemminger
Commonwealth Edison Company
P.O. Box 767
Chicago, IL 60690
(312) 294-4433

(2 North LaSalle
60602)
FAX # 312-294-4466

Mr. Joseph Kwasnik
New England Power Service Co.
25 Research Drive
Westboro, MA 01581
(617) 366-9011 ext. 2070

FAX # 617-898-3952

Mr. Fred Manhart
Mail Unit 31
New Orleans Public Service, Inc.
P.O. Box 60340
New Orleans, LA 70160
(504) 595-2364

(317 Baronne
70112)
FAX # 504-595-2421
(VOICE - 2635)

Mr. K. J. Morris
Div. Manager/Quality Assurance
Omaha Public Power Dist.
1623 Harney St.
Omaha, NE 68102
(402) 536-4504

FAX # 402-536-4466

Laura Ritzman, Esq.
Counsel
General Motors Corp.
New Center One Bldg.
3031 W. Grand Blvd.
Detroit, MI 48202
(313) 974-15522

FAX # 313-974-1983
313-974-1984
(VOICE - 1933)

Mr. Paul Turregano
Central Louisiana Electric Company
P.O. Box 5000
Pineville, LA 71361-5000
(318) 484-7413

(2030 Donahue-Ferry Rd.
71361)
FAX # 318-484-7465

Steering Committee (cont'd)

Mid-Sized Generator Representatives

Mr. Bob Locke
Campbell Soup Company
Campbell Place
Camden, NJ 08103-1799
(609) 342-8530

FAX # 609-342-3878

Small Quantity Generator Representatives

Timothy G. Rogers, Esq.
Assistant General Counsel Environmental
American Can Packaging, Inc.
American Lane, P.O. Box 2600
Greenwich, CT 06836-2600
(203) 552-3368

American Lane
Mail Drop 1C9
FAX # 203-552-2340

Mr. Dick Sternberg (Represents rural electric coops)
National Rural Electric Cooperative Assn.
1800 Massachusetts Avenue, N.W.
Washington, D.C. 20036
(202) 857-9606

FAX # (202) 857-4854

Mr. John Teel
Environmental Services Supervisor
Environmental Health Dept.
City of Garland
P.O. Box 469002
Garland, TX 75046-9002
(214) 494-7360

200 5th
75040
NO FAX MACHINE

Attending

Gary W. Frey
Director Environmental Affairs
Western Area Power Administration
P.O. Box 3402
Golden, CO 80401
(303) 231-1527

FAX # 303-231- 7457
OR - 1632
(VOICE - 1550)

Mr. J. Martin Thrasher
Environmental Affairs Administrator
Colorado Springs Dept. of Public Utilities
P.O. Box 1103/Mail Stop 1505
Colorado Springs, CO 80947
(303) 636-5594

(102 S. Weber/Suite 200
80903)
FAX # 303-636-1487
(VOICE - 5603)

Steering Committee (cont'd)

Counsel for Steering Committee

Sheldon A. Zabel, Esq.
Russell Selman, Esq.
Schiff Hardin & Waite
7200 Sears Tower
Chicago, IL 60606
(312) 876-1000

FAX # 312-876-7005
(VOICE - 1550)

Chairman Legal Subcommittee

Gary E. Johnson, Esq.
Iowa Public Svc.
P.O. Box 778
Sioux City, IA 51102
(712) 277-7586

FAX # 712-277-7761
(VOICE - 7797)

Chairman Technical Subcommittee

Steve Winship
Commonwealth Edison, Environ.Affairs
P.O. Box 767
Chicago, IL 60690
(312) 294-4439

(2 North LaSalle
60602)
FAX # 312-294-4466

ROSE CHEMICAL
LEGAL SUBCOMMITTEE
05/20/87

Gary E. Johnson, Esq. (Chairman)
Iowa Public Service
P.O. Box 778
Sioux City, Iowa 51102
(712) 277-7586

(401 Douglas West)
FAX # 712-277-7761
(VOICE - 7797)

Camille Q. Bradford, Esq.
Legal Department
Kansas Power & Light
P.O. Box 889
Topeka, KS 66601
(913) 296-6300

(818 Kansas Avenue
Topeka, KS 6612)
FAX # 913-296-6596

Stephen M. Bruckner
For: Omaha Public Power Dist.
Faser, Stryker, Veach, Vaughn,
Meusey, Olson, Boyer & Bloch, PC
500 Electric Bldg.
Omaha, NE 68102
(402) 341-6000

FAX # 402-341-8290

Janis A. Callison, Esq.
New England Power Service Company
25 Research Drive
Westboro, MA 01582-0099
(617) 366-9011 ext. 2879

FAX # 617-898-3952

John Chapman
Western Area Power Administration
1627 Cole Blvd.
Golden, CO 80401
(303) 231-1696

FAX # 303-231-7457
303-231-1632
(VOICE - 1550)

Diane Goldschmidt, Esq.
Oklahoma Gas & Electric
Box 321, MC 1043
Oklahoma City, OK 73101
(405) 272-3199

(321 N. Harvey
73102)

Legal Subcommittee (cont'd)

Charles Hinton
City Attorney
City of Garland
P.O. Box 469002
Garland, TX 75046-9002
(214) 494-7231

NO FAX MACHINE

Pat Lorenz
Missouri Public Svc. Co.
P.O. Box 11739
Kansas City, MO 64138
(816) 737-9370

FAX # 816-737-9334

Edward T. Meyer, Esq.
For: Louisiana Power & Light
& New Orleans Public Service
Monroe & Lemann
231 St. Charles Ave./Suite 3300
New Orleans, LA 70170
(504) 586-1900

Albin A. Provosty, Esq.
Stephen D. Wheelis
For: Central Louisiana Electric Co.
Provosty, Sadler & DeLaunay
8th Floor Guaranty Bank Bldg.
P.O. Box 1791
Alexandria, LA 71309-1791
(318) 445-3631

(934 3rd Street 71301)

FAX # 318-445-9377

Kent Ragsdale
Interstate Power Company
1000 Main St.
Dubuque, IA 52001
(319) 582-5421

Laura Ritzman
General Motors
New Center One Bldg.
3031 W. Grand Blvd.
Detroit, MI 48202
(313) 974-1726

FAX # 313-974-1983
313-974-1984
(VOICE - 1933)

Timothy G. Rogers, Esq.
Assistant General Counsel Environmental
American Can Packaging, Inc.
American Lane, P.O. Box 2600 (American Lane, Mail Drop 1C9)
Greenwich, CT 06836-2600
(203) 552-3368

FAX # 203-552-2340

Legal Subcommittee (cont'd)

OTHER COUNSEL

Charles M. Ullman, Esq.
Associate Counsel
Campbell Soup Company
Campbell Place
Camden, NJ 08101-0391
(609) 342-6136
FAX # 609-342-3878

Brad Neighbor
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, TX 75046-9002
(214) 494-7231
NO FAX MACHINE

Martin Thrasher
City of Colorado Springs
P.O. Box 1103
Colorado Springs, CO 80947
(303) 636-5594
FAX # 303-636-1487
(VOICE - 5603)

Russell Selman, Esq. (ex-officio)
Sheldon A. Zabel, Esq.
Schiff Hardin & Waite
7200 Sears Tower
Chicago, IL 60606
(312) 876-1000
FAX # 312-876-7005

Nancy W. Newkirk, Esq.
Clean Sites, Inc.
1199 N. Fairfax St.
Alexandria, VA 22314
(703) 683-8522
FAX # 703-548-8773

ROSE CHEMICALS
TECHNICAL SUBCOMMITTEE
05/20/87

Steve Winship (Chairman)
Commonwealth Edison, Environ.Affairs
P.O. Box 767
Chicago, IL 60690
(312) 294-4439

(2 North LaSalle
60602)
FAX # 312-294-4466

Mr. Joe Kwasnik (Vice Chairman)
New England Power Service Co.
25 Research Drive
Westboro, MA 01582
(617) 366-9011 x2070

FAX # 617-898-3952

Mr. Lester Burris
Oklahoma Gas & Electric
P.O. Box 321, MC 1043
Oklahoma City, OK 73101-0321
(405) 272-3245

(321 N. Harvey
Oklahoma City, OK 73102)

Mr. Bob Fackler
Kansas Power & Light
P.O. Box 889
Topeka, KS 66601
(913) 296-6515

(818 Kansas Ave.
Topeka, KS 66612)
FAX # 913-296-6596

Mr. Harold Faherty
Interstate Power
P.O. Box 769
Dubuque, IA 52004-0769
(319) 582-5421

(1000 Main St.
52001)
FAX # 319-557-2202

Mr. Robert Locke
Campbell Soup Co.
Campbell Place
Camden, NJ 08103-1799
(609) 342-8530

FAX # 609-342-3878

Mr. Fred Manhart
New Orleans Public Service
P.O. Box 60340, Unit N-31
New Orleans, LA 70160
(504) 595-2364

(317 Baronne Street
New Orleans, LA 70112)
FAX # 504-595-2421

Technical Subcommittee (cont'd)

Mr. Carl Norton
West Texas Utilities
P.O. Box 841
Abilene, TX 79604

(1026 N. 3rd Street
Abilene, TX 79604
FAX # 915-674-7611

Mr. Kenneth J. Morris
Omaha Public Power Dist.
1623 Harney St.
Omaha, NE 68102
(402) 536-4504

FAX # 402-536-4466

Mr. Dick Sternberg
National Rural Elec. Coop
1800 Massachusettes Ave., N.W.
Washington, D.C. 20036
(202) 857-9606

FAX # 202-857-4854

Mr. John Teel
City of Garland
Box 469002
Garland, TX 75046-9002
(214) 494-7360

(200 5th Ave.
Garland, TX 75040)
NO FAX MACHINE

Mr. Harry Walton
Illinois Power
500 S. 27th Street
Decatur, IL 62525
(217) 424-6832

FAX # 217-424-6978

Ms. Denise Travers
General Motors, Env. Activities
30400 Mound Rd, GM Tech Ctr
Warren, MI 48090-9015
(313) 947-1854

FAX # 313-947-1413

KEY PERSONNEL INTERACTING WITH TECHNICAL SUBCOMMITTEE

Gary Johnson
Legal Subcommittee Chairman
Iowa Public Service
P.O. Box 778
Sioux City, IA 51102
(712) 277-7586

(401 Douglas)

FAX # 712-277-7761

Mr. Ken Mathias
Western Area Power Authority
Box 13402
Golden, Co 80401
(303) 231-7401
(303) 231-1632

(1627 Cole Blvd.

Golden, CO 80401)

FAX # 303-231-7457

303-231-1632

(VOICE -1550)

Mr. Jene Robinson
Illinois Power Co.
500 S. 27th Street
Decatur, IL 62525-1805
(217) 424-6834

FAX # 217-424-6978

Russ Selman
Schiff, Hardin & Waite
7200 Sears Tower
Chicago, IL 60606
(312) 876-1000

FAX # 312-876-7005

Jim Kohanek
Roger Van Zele
Phil Laughlin
Clean Sites
1199 N. Fairfax St.
Alexandria, VA 22314
(703) 683-8522

FAX # 703-548-8773

ROSE CHEMICALS TECHNICAL SUBCOMMITTEE
RECORDS REVIEW and RECONCILIATION TASK GROUP (RRR)
Re: WASTE-IN DATA BASE

Decision Making Criteria:

1. The RRR will use the waste-in database as developed from the Rose Chemical generator records and all related documents obtained by Clean Sites from Rose Chemical as the standard against which all requests are judged.
2. The RRR will accept as evidence from PRPs the following supporting documents which are ranked in order of precedence; the items we have the most trust in are listed first:
 - A. Uniform hazardous waste manifests with weight tickets or documents from scales certified as described.
When a discrepancy is based on a simple difference between transporter shipping weights on PRP scales versus shipping weights on Rose Chemical's scales, the PRP must prove that his scales had been properly certified in accordance with Interstate Commerce Commission and/or applicable state and local weights and measures regulation within twelve (12) months prior to shipment date. Otherwise, Rose's scales will be assumed to be correct.
 - B. Invoices from Rose to PRPs.
In the absence of (A), any PRP who is disputing the weight of a PCB shipment to Rose Chemical should be able to prove that a claim was made to Rose Chemical regarding the weight discrepancy during the period when Rose sent an invoice for the shipment. For example, the PRP should produce letters, corrected invoices, cancelled checks, and other documents substantiating that a claim was promptly made.
 - C. Correspondence between PRP and Rose.
 - D. PRP contracts/purchase orders with Rose.
 - E. Manufacturer's data on the weight of specific electrical equipment.
 - F. Other evidence as deemed appropriate.
3. Packaging, pallets, capacitor boxes, crates, and other containers sent to the site by a PRP will be considered as part of a PRP's total weight-in.

Cost Allocation Formula

**Martha C. Rose Chemicals, Inc. (Rose) Site Cleanup
Holden, Missouri**

Part I - Guiding Principles and Definitions

A. Guiding Principles

The general principles used by the Rose Chemicals Technical Subcommittee to develop the Cost Allocation Formula are as follows:

1. This allocation formula was developed to apply only to generators. The allocation of costs to other responsible parties, including but not limited to transporters, brokers, site owner and lessees, has not yet been addressed. The allocation and recovery of costs from other responsible parties will not affect the manner in which the formula applies but could affect the total amount to be allocated by the formula.
2. Any allocation formula must be fair and equitable to the waste generators regardless of their size or the amount of PCB materials they sent to Rose.
3. The formula must be as simple as possible to implement.
4. Certificates of Destruction, as provided by Rose to generators, should not be used as the primary cost allocation mechanism, for the reasons summarized below.

The Cost Allocation Formula has been developed on the basis of assigning costs according to the PCB materials presently remaining at the Rose site instead of attempting to make assumptions as to the PCB material disposed by Rose. The Allocation Task Force of the Technical Subcommittee, and Clean Sites, Inc., spent over thirty (30)

man-days reviewing the Rose records. Following this review, the Task Force concluded that Rose did not have a system to track wastes through to ultimate disposal following receipt of the wastes at the site. There is no evidence that Rose disposed of material in any time-sequential manner, such as first-in-first-out (FI/FO). Rose did not have a system for tracking waste in process. Although the Task Force acknowledges that Rose did process, and dispose of, some material at the site, there is no way to determine which (whose) wastes were ultimately sent to final disposal.

The Allocation Formula gives indirect credit to generators whose materials were processed and may have been sent off site. Under the Allocation Formula, intact, identifiable materials remaining on-site are allocated to the generator. Generators will be responsible for their proportionate share of wastes that are no longer intact or identifiable. The Task Force believes that cleanup cost for a unit of identifiable material will exceed the cleanup costs for a unit of unidentifiable materials.

Finally, some Rose Certificates of Destruction (CD's) have been proven to be invalid because those CD's were issued by Rose for more waste than actually went to ultimate disposal. The Allocation Task Force interviewed a former Rose employee responsible for preparing CD's for Rose, who stated that documentation furnished to the employee to prove ultimate disposal of wastes was of a questionable nature.

5. Disposal costs for identifiable materials remaining at the site should be paid by the individual original generator.
6. Since no way exists to assign generator identity to the great bulk of PCB equipment and components, disposal costs for those items must be borne by PRPs as non-identifiable materials.

7. Rose receiving records, as verified by individual generators, and as corrected by the process in Part VI, appear to be valid for determining the quantities of materials sent to the site by each generator.

B. Definitions

1. Common Costs--All shared costs, as defined in Section III.A. of the Agreement Among Potentially Responsible Parties at the Martha C. Rose Chemicals, Inc., Site, other than costs incurred pursuant to a contract for disposal of generator-sent materials. Examples by category would be:

Administration: Legal fees; costs assessed by Clean Sites, Inc., other than costs incurred pursuant to a contract entered into on behalf of the Steering Committee for disposal of generator materials; site stabilization and security; inventory; costs of other contractors and/or subcontractors whose activities, taken as a whole, do not more appropriately belong in another category of common costs; common administrative costs, as set out in Section III.A.(4) of the Agreement Among Potentially Responsible Parties at the Martha C. Rose Chemicals, Inc., Site; etc.

Site Cleanup: On-site and contiguous off-site soil removal/disposal; on-site and contiguous off-site assessment of any environmental media; cleanup of the site buildings; costs for City of Holden sewage sludge; disposal of Rose site and building (non-generator) debris; etc.

Long-Term Contingency: Monitoring/remediation of any environmental media not addressed by "site cleanup" above; health-effects-related legal and other expenses; obligations

arising out of the indemnification provision of Section IV.A. of the Agreement Among Potentially Responsible Parties at the Martha C. Rose Chemicals, Inc., Site; obligations arising out of an indemnification provision in any other contract entered into by authorization of the Steering Committee; any response costs associated with off-site shipments by Rose of generator or other responsible party materials, should such costs be imposed upon Rose PRPs; etc.

2. Disposal--Sampling, transport and ultimate processing (landfilling, treatment or incineration) of materials.
3. Identifiable Materials--PCB items, including oil, capacitors, transformers, debris, electrical components, and other items, sent to Rose by outside generators, and whose original ownership (individual generator) can be presently determined through Rose receiving records, generator records, identification numbers and container labels. Containers (drums, boxes, crates) of intact (see below) materials, and transformers, with a label identifying one generator will be assumed to be the property of that generator. The presence of any Rose label will automatically assign the container to the non-identifiable category. The Task Force's investigation of the Rose site revealed that containers with Rose labels consistently contained in-process equipment (insulators, metal, etc.) or multiple generator equipment.
4. Intact Materials--Non-processed items, in original shipping containers, as shipped by the generator. Transformers need not contain fluid to be considered "intact."
5. Non-Intact or Non-Identifiable Materials--All materials sent by generators that are not identifiable or intact as defined above.

Fluid drained from transformers subsequent to being received at the site will be deemed non-identifiable.

Part II - Cost Allocation Formula

A. Written Description

1. Disposal of Intact and Identifiable Materials

Costs will be assigned directly to the identified generator according to the category of materials shipped by that generator. The total weight of material assigned to an individual generator cannot exceed the total weight shown by Rose and/or generator records to have been shipped to the site by that generator.

2. Disposal of Non-Intact or Non-Identifiable Materials

Costs will be allocated according to the ratio of the weight of non-identifiable material (total material minus identifiable, from 1. above) sent by the generator divided by the total weight of non-identifiable material from all generators (total weight of material to the site minus total weight of identifiable material).

For purposes of this allocation, disposal cost of debris will be calculated separately from the cost of disposal of all other materials.

3. Common Costs

Common costs will be allocated as follows, by category:

Administration--Costs will be allocated according to the ratio of the total weight of materials sent to the site for each

individual generator divided by the total weight of materials sent by all generators.

Cleanup--Costs will be allocated according to the ratio of the total weight of non-identifiable materials sent by each individual generator divided by the total weight of non-identifiable materials sent by all generators.

Long-Term Contingency (if any)--Same as for Administration costs.

B. Arithmetic Description

T = Total weight of all material sent to Rose by all generators.

I = Total weight of all remaining, identified material sent to Rose by all generators.

t_n = Total weight of all material sent to Rose by generator n .

i_n = Total weight of all remaining identified material sent to Rose by generator n .

U = Total weight of all non-identified material sent to Rose by all generators.

u_n = Total weight of non-identified, non-intact material sent to Rose by generator n .

N = Total number of generators.

$T = \sum t_n$ for all generators.

$I = \sum i_n$ for all generators.

$U = T - I$.

$u_n = t_n - i_n$.

1. Disposal of Intact and Identifiable Material

Cost for generator $n = i_n \times (\text{disposal cost per pound})$.

2. Disposal Cost of Non-Intact or Non-Identifiable Material

Cost for generator n = $(t_n - i_n) \times$ [disposal cost per pound
U x (weight of remaining non-
identifiable material at Rose
site)]

Note: Calculations would be done separately for debris category and other material category.

3. Common Costs

Administration

Cost for generator n = $t_n \times$ (total administration cost)
T

Cleanup

cost) Cost for generator n = $(t_n - i_n) \times$ (total common cleanup
U

Long-Term Contingency

Cost for generator n = $t_n \times$ (total contingency cost)
T

Part III - Example

Note: This example is hypothetical, and is not intended to represent any single company. Unit cost disposal figures are for demonstration purposes only.

A. Facts

1. Sunbelt Utilities Company (SU) sent PCB material in 1983 and 1984, in the following categories:

Debris	48,000 pounds
Capacitors	129,000 pounds
Transformers	117,000 pounds
<u>PCB Oil</u>	<u>37,000 pounds</u>

Total Weight 331,000 pounds

2. Total weights of materials sent to Rose by all categories by all generators were:

Debris	3,990,000 pounds
Capacitors	12,642,000 pounds
Transformers	3,119,000 pounds
<u>PCB Oil</u>	<u>4,817,000 pounds</u>

Total Weight 24,568,000 pounds

3. Weights of identifiable materials remaining at Rose for all generators were:

Debris	1,104,000 pounds
Capacitors	4,687,000 pounds
Transformers	916,000 pounds
<u>PCB Oil</u>	<u>102,000 pounds</u>

Total Weight 6,809,000 pounds

4. Weights of non-identifiable materials remaining at Rose for all generators were:

Debris	517,000 pounds
Capacitors	2,612,000 pounds
Transformers	233,000 pounds
<u>PCB Oil</u>	<u>914,000 pounds</u>

Total Weight 4,276,000 pounds

5. Common Costs for the Rose site were:

Administration:	\$2,125,000
Cleanup:	\$1,820,000
Long-Term Contingency:	None at this time

6. The following weights of materials were found remaining at the site, and were identifiable as being sent to Rose by Sunbelt:

Debris	42,500 pounds
Capacitors	82,000 pounds
Transformers	117,000 pounds
PCB Oil	None
Total Weight	241,500 pounds

7. Cost Allocation to SU would be as follows:

a) Disposal of Identifiable Materials

Debris:	42,500 lbs x \$0.27 per lb = \$ 11,475
Capacitors:	82,000 lbs x \$0.57 per lb = \$ 45,920
Transformers:	117,000 lbs x \$1.20 per lb = <u>\$140,400</u>
	TOTAL = \$197,795

b) Disposal of Unidentifiable Materials

Debris: $\frac{5,500 \text{ lbs}}{2,886,000 \text{ lbs}} \times 517,000 \text{ lbs}^* \times \0.27 per lb
= \$266

Other: $\frac{84,000 \text{ lbs}}{14,873,000 \text{ lbs}} \times 3,759,000 \text{ lbs}^* \times \0.69 per lb
= \$14,650

*Total weights of non-identifiable or non-intact materials to be disposed of.

c) Common Costs

1) Administration:

331,000 lbs x \$2,125,000 = \$28,630
24,568,000 lbs

2) Clean-Up:

89,500 lbs x \$1,820,000 = \$9,170
17,759,000

3) Long-Term Contingency: None

4) TOTAL COMMON COSTS: \$37,800

d) Total Costs for Sunbelt Utilities:

Disposal of Identified Materials:	\$197,795
Disposal of Non-Identified Materials:	14,916
Common Costs:	<u>37,800</u>

\$250,511

Part IV - Buyout for Small Generators

A buyout for small generators is under consideration. Although adoption of a buyout alternative should not affect the manner in which the formula applies, it could affect the amount to be allocated to or obtained from some or all of the generators who do not or cannot "buy out". No decision has been made regarding the terms of buyout or when it will be offered.

Part V - Other Issues

This formula does not address the issues of how any funds recovered through Rose insurance policies or through the Rose bankruptcy proceedings would be

applied to the cleanup. Whether such funds will ultimately be recovered is unknown at this time, and the application of any such funds will be addressed at a later time.

Part VI - Dispute Resolution

- A. Waste-in record discrepancies addressed to CSI by a PRP shall be reviewed by the Records Review and Reconciliation Task Group of the Technical Subcommittee. The Task Group recommendations on resolution of the dispute shall be reviewed by the Technical Subcommittee and may be overturned by a two-thirds majority of the Technical Subcommittee in attendance. The Steering Committee shall hear and decide appeals from decisions of the Technical Subcommittee. The Steering Committee may, by a two-thirds vote of members in attendance, reverse or modify the decisions of the Technical Subcommittee, or may remand to the Technical Subcommittee for further consideration.
- B. [The Steering Committee intends to adopt a mechanism for resolution of other disputes raised by any PRP over the application of the formula as to its wastes. The text of this section will be inserted at a later date after its approval by the Steering Committee].

April 1, 1987

TO: ROSE CHEMICALS TECHNICAL SUBCOMMITTEE
FROM: Allocation Task Force
RE: PRP COMMENTS ON DRAFT ALLOCATION FORMULA - ALLOCATION TASK FORCE RECORD OF REVIEW AND RESPONSE

Background

In early 1987, the Rose Chemicals Allocation Task Force distributed a Draft Allocation Formula (DAF) to all identified Rose Chemicals generator potentially responsible parties (PRP's). The Task Force, in its distribution, requested the PRP's to review and comment on the DAF. About forty (40) PRP's submitted comments to the Task Force.

Task Force Review and Response

From these 40 responses, the Task Force identified and commented on the following major issues raised:

Validity of Certificates of Destruction (CD's)

PRP Comments:

1. It is premature to disregard CD's until an investigation of waste manifests versus the waste remaining on-site is concluded.
2. All reasonable efforts should be exhausted in proving/disproving the validity of CD's.
3. A cataloging of CD's by equipment remaining on-site and what is not on-site should be done.
4. A full analysis of all records along with a better evaluation of the analysis will provide better information on the validity of CD's.
5. Even if CD's are not validated, some credit should be given to early issued CD's than to later issued CD's. (First in-First Out credit).

Task Force Responses:

The Task Force maintains its position that CD's are invalid for the following reasons:

1. The Task Force and Clean Sites, Inc. (CSI) spent over thirty (30) man-days in reviewing the Rose Chemicals records. Following this review, the Task Force concluded that Rose did not have a system to track wastes through to ultimate disposal following receipt of the wastes at the site.

2. Although the Task Force acknowledged that Rose did process and dispose of some material at the site, there was no way to determine which wastes were ultimately disposed of.
3. The DAF gives indirect credit to those PRP's whose materials were processed and may have been sent to ultimate disposal.
4. There is no evidence that Rose disposed of material in any time sequential manner, such as first in - first out (FI/FO).
5. Some Rose CD's have been proven to be invalid because these CD's were issued by Rose for more waste than actually reached ultimate disposal.
6. An Allocation Task Force interview with a former Rose Chemicals employee who processed and issued CD's for Rose revealed that documentation furnished to the employee to prove disposal of wastes was of a questionable nature.

Brokers and Non-Generator PRP's

PRP Comments:

1. Disposal brokers who sent generator equipment to Rose should be responsible for 25%, 50% of the Rose Chemicals site response costs allocated to their generator clients.
2. Other non-generator PRP's (City of Holden, Lear Siegler, Transformer Services, Inc., etc.) should be allocated some financial assessment for site cleanup.

Task Force Response:

1. Originating generators (original equipment users) will be assessed 100% of costs to the extent records allow based on the final Allocation Formula. Generators should pursue with their brokers cost recovery based on the contractual agreements between the two parties.
2. Brokers, transporters, City of Holden and Lear Siegler will remain as non-generator PRP's. Non-generator PRP's will be held accountable and will be handled separately from generator PRP's.

Transformers

PRP Comments:

1. All drained transformers should be treated as a "de-minimus" class of equipment.
2. The transformer inventory should distinguish oil-filled from drained transformers.

3. Drained transformers should be excluded from any costs of site cleanup related to oil releases or oil contamination.
4. Identified (and intact) transformers should be omitted from site administrative costs.
5. Generators who drained transformers prior to transport to Rose and where CD's documenting disposal of the drained fluids at a non-Rose disposal facility can be furnished, should not be assessed site cleanup costs due to oil contamination.
6. All transformers on-site should be considered identifiable. If a transformer known to have been shipped to the site is not found on-site, then it should be assumed to have been disposed of.
7. Will leaking transformers be distinguished from non-leaking transformers for costs of disposal and cleanup?

Task Force Response

1. If a generator can document that its transformer(s) were drained prior to shipment to Rose, then costs of oil disposal and other oil related liabilities will not be imposed. However, due to the requirements of landfill operators, all transformers on-site will be flushed prior to disposal regardless of whether the unit was flushed prior to shipment to Rose. The flushing and disposal cost will be assessed to the transformer generator.
2. Transformers which were drained prior to shipment still remain contaminated and regulated as a PCB/TSCA waste and, therefore, require disposal according to the PCB regulations. No "de-minimus" classification of transformers will be developed.
3. The DAF is sensitive to the issue of drained, on-site and identifiable transformers in that no site cleanup costs are allocated to this class of equipment.
4. Because transformers are present on-site and do incur certain administrative cost, such as record review, inventory and PRP mailings, transformers will be assessed administrative costs.
5. Generators of transformers which have been disposed of are indirectly given a credit in that they are only responsible for "common costs" at the site. These generators do not pay for disposal of another generator's identifiable transformer.
6. Leaking transformers are not distinguishable from non-leaking transformers under the DAF. No site cleanup costs are imposed by the DAF on these units if identifiable.

Buy-Outs

PRP Comments:

Will a buy-out be offered to certain groups of PRP's?

Task Force Response

The Task Force has recommended to the Technical Subcommittee the adoption of the following buy-out proposal:

- An "early" or first buy-out may be offered to all generators who sent 10,000 pounds or less of waste to the site. The buy-out factor may be set at the greater of \$10 per pound of waste sent to the site or \$1,000.
- A second buy-out may be offered to all generators with individually less than one (1) percent of waste shipped to the site. The buy-out factor will be set after the conduct of a site assessment and selection of a site cleanup methodology. The timing of this second buy-out offer is not known at this time.

This buy-out concept still must be approved by the Technical Subcommittee and developed by the Legal Subcommittee prior to final approval by the Rose Chemicals Steering Committee.

Labels

PRP Comments:

Why would a container which exhibits generator and Rose Chemicals labels be considered to be unidentifiable with respect to the generator?

Task Force Response

1. The number of containers which exhibit both a generator and a Rose Chemicals label is 234 containers. This minimal quantity is compared to 4,274 containers which have only a generator label and 3,126 containers which have only a Rose Chemicals label.
2. Based upon observations by the Task Force and CSI at the site, the containers which exhibited two or more labels consistently contained in-process equipment (insulators, metal, etc.) or multiple generator equipment.
3. Containers with one or more Rose Chemicals labels will be considered to be non-identifiable and non-intact equipment.
4. The universe of identifiable and intact equipment is limited to the 4,274 one generator label containers.

Credit for Identifiable Equipment in the Disposal of non-Identifiable Equipment

PRP Comments:

Why are generators of identifiable, on-site equipment relieved of responsibility for costs of disposal of non-identified equipment?

Task Force Response

The generator of identifiable equipment at the site will be paying for the cost of disposal of its actual equipment. These generators should not be asked to pay again for the disposal of non-identified equipment. Please note that the DAF only credits a generator with the actual weight of the identifiable equipment at the site.

Waste by Category

PRP Comments:

1. The risk of site contamination by generator sent soil is not of the same magnitude as PCB fluid/oil.
2. The DAF should recognize the different risks of site contamination represented by different waste streams.
3. Are processed capacitors considered to contribute to the quantity of oil now stored on-site? Will capacitors be charged a cost for oil disposal?

Task Force Response

1. Disposal of generator identifiable soils will be charged to the generator. Based upon the site equipment inventory, most soils are contained in drums or crates and are identifiable to the generator. The DAF does not impose a site cleanup cost on the generator for these identifiable wastes.
2. Processed (unidentifiable) capacitors are considered to produce quantities of oil. The generator of this equipment will be assessed a cost for disposal of oil, core and metal.
3. Transformers which were sent to the site with oil will be assessed a cost for disposal of the contained oil.
4. All unidentifiable equipment (soils, transformers, oils, capacitors) will be assessed a common site cleanup cost. The DAF does not distinguish among waste streams in the assessment of this cost.

"Unique" Materials Sent to Site

PRP Comments:

Some allowance should be made for unique equipment sent to the site (i.e., contaminated ductwork, etc.)

Task Force Response

No allowance for "unique" materials brought to the site is contained within the DAF. If the equipment is identifiable, then the generator will be assessed the direct disposal cost for the equipment. If the equipment is unidentifiable, the cost of disposal will be allocated to unidentifiable equipment disposal costs.

Toxicity of Materials at Site

PRP Comments:

The PRP's should be allowed access to their equipment at the site in order to test and confirm the PCB levels of the equipment as shipped.

Task Force Response

1. The U.S. Environmental Protection Agency (EPA) has stated that no PRP will be allowed to individually remove equipment from the site.
2. The Steering Committee cannot permit all PRP's to access the site to confirm the PCB level of their equipment due to the logistical problems of access and increased risk of site contamination.

Generic Toxicity of Wastes

PRP Comments:

1. Some generators sent low level PCB concentration wastewater to Rose Chemicals.
2. Many generators sent less than 50 ppm wastes to the Rose Chemicals site (soils, oils, etc.)

Task Force Response

1. The DAF does not provide any consideration of waste toxicity primarily because the method of waste disposal is expected to be common for each waste class (i.e., liquids, soils, capacitors, transformers).
2. The cost of disposal for each waste class is generally expected to be constant regardless of the toxicity of the waste.

3. If the DAF did provide for consideration of waste toxicity, each generator waste stream would need to be tested to verify toxicity. This cost would be prohibitive and would greatly increase the ultimate cost to the PRP's.

Procedural Issues

PRP Comments:

A PRP requested an analysis of the financial impact of the DAF on his Company.

Task Force Response

The DAF was developed by the Task Force in the absence of knowledge of the quantity of wastes on-site or the breakdown of wastes by individual generator. This "unbiased" approach was taken to minimize development of a DAF which favored the developers' respective companies.

When the final waste-in data is available, each individual PRP can individually calculate the DAF impact on his company.

Report of Rose Chemical Technical Subcommittee Task Force's Visit to Rose Chemical Site in Holden, Missouri on February 5, 1987.

On February 5, 1987. Steve Winship and John Teel of the Technical Subcommittee met Jim Kohanek of Clean Sites in Kansas City, Missouri and drove to the Rose Chemical Site in Holden. They met the Clean Sites Project Manager, Cliff Kline, and discussed current activities related to Chemical Waste Management's (CWM) ongoing inventory and related topics. Mr. Kline advised the group of the current status of the project and introduced them to the CWM team. The CWM officials demonstrated their innovative computer-assisted inventory procedure which utilizes bar codes and lazer scanners.

The group (Winship, Teel, and Kohanek) had one primary and one secondary objective for the on-site visit. First, they desired to see actual labels on drums, crates, and transformers to determine whether the definitions for identifiable wastes in the draft allocation formula are in fact valid. Second, the group wanted to conduct a quality assurance check on the accuracy of CWM's inventory and determine whether all relevant information about each container was being recorded.

Mr. Kline advised the group of the following facts and assumptions prior to the site inspection:

- (1) Clean Sites and CWM consider a "label" as a document affixed to a container which contains data regarding a generator, container contents, dates, manifest numbers, etc. A "sticker" is a document affixed to a container which is a warning message only.
- (2) A "Rose" label (as opposed to a generator label) is one in which the generator name, address, EPA I.D. number, etc. is blank; or, a label in which the generator is Martha C. Rose (designated as Martha C. Rose, M.C. Rose, MCR, or Rose).
- (3) CWM includes the manifest numbers from labels (if present) in the automated inventory, but does not use or enter numbers present in the space labeled "EPA I.D. #". Many labels have numbers in this blank which are not EPA generator I.D. numbers and which are therefore meaningless. Conversely, the manifest numbers are

usually traceable to a hard copy manifest which reveals a significant amount of data about the container.

(4) Of the two dates on a label, only the "date placed in storage" is entered into the automated inventory system.

Mr. Kline also indicated that the incidence of multiple generator labels on a drum was quite low. He believes less than 1% of drums have 2 or more generator labels. As of February 5, 1987, all drum labels on the site had been inventoried and entered into the computer. The items which CWM intended to inventory were transformers, metal boxes, wooden crates, and drums. The group was shown examples of reports which CWM was generating from the partial inventory. The spreadsheets had columns for the following:

<u>Material</u> <u>Contents</u>	<u>Weight</u>	<u>Type of</u> <u>Container</u>	<u>Article</u> <u>Number</u>	<u>Restaged</u> <u>Location</u>	<u>Remarks</u>
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The CWM inventory personnel disregard any data written on containers with spray paint, paint or ink pens, etc. Hand held computers are currently being used only for drums. Other containers are being inventoried manually.

According to Mr. Kline, as of February 5, 1987, all containers except bulk tanks had been inventoried. A total of 182 PRP's had been identified. Apparently, no other PRP's will be identified in the inventory.

The current inventory status identifies total masses of waste in drums and containers of 3.7 million pounds (see attached table).

In order to gain insight into the validity of the "identifiable" waste definition (no more than one [1] generator label nor more than two [2] Rose labels) the group looked for drums and containers in which a label had one or more additional labels superimposed (placed directly atop) on it. They checked four drums and two containers meeting these criteria and found that none had a different generator under the top label. Most of the top labels were identical with the label directly underneath (same generator, address, EPA I.D. #, manifest number, and date placed in storage). On some of the containers or drums, the topmost label had a later "date placed in storage" than the covered label. The group interviewed a CWM technician who had been involved in the inventory from the outset. The technician indicated that he had found numerous drums and

containers with superimposed labels; however, upon separating the labels he found that none had different generators on first and second labels. The technician had noted date changes on some labels.

In order to conduct a QA check on CWM's inventory system, the group used two strategies. First, CWM employees in the field office (where the computer is located) were asked to list consecutive article numbers on the screen. Mr. Winship and Mr. Teel randomly chose various article numbers (inventory numbers for individual containers) and asked CWM technicians in the storage buildings to find the container and radio all pertinent label data to the field office. The data the technicians radioed to the office included generator I.D. number, type of container, material in container, manifest number, weight, date placed in storage, etc. The technicians were unable to physically locate some of the drums we requested due to the large number of drums and the manner in which they were stacked. With respect to the drums they were able to find on short notice, the data on said drums generally matched the records on the computer. Some minor errors in "weight" and "date placed in storage" were found.

The group then donned personal protective equipment and inspected the storage areas. At various locations in the warehouse, the group would radio an article number from a drum or container to the CWM field office and request all data from that article's record. The data correlated precisely. The group concluded that the CWM automated inventory system was impressive, quite accurate, and valid for the purposes of the allocation formula.

Steve Winship and John Teel independently noted, from inspections of drums and from examination of inventory printouts, that containers which contained even one (1) Rose label in addition to a generator's label did not often contain what was originally manifested. Many of the drums with Rose labels showed signs of severe wear, such as scrapes, dents, etc. Both task force members now believe that the presence of even one (1) Rose label suggests that the original contents have been removed and replaced with waste materials not belonging to the original generator. Winship and Teel now propose this hypothesis to the Technical Subcommittee:

"If a drum or container has one or more Rose labels, the original contents have probably been removed and another PRP's contents placed in the container." The group believes that if this hypothesis is

correct, any containers which possess even one Rose label should be defined as "non-identifiable" and become a part of the common cost in the allocation formula.

Finally, the group was favorably impressed with the clear control Mr. Kline exercises over the site and with the highly professional manner in which Mr. Kline, Jerry Hollingsworth, and the CWM team are conducting their tasks.

Report Prepared By: John H. Teel
Technical Services Supervisor
City of Garland, Texas

Date Prepared: February 6, 1987

PROPER D.O.T.
SHIPPING NAME

DRUM # 15974
WASTE POLYCHLORINATED BIPHENYLS UN 2315

ORM-E



HAZARDOUS WASTE

FEDERAL LAW PROHIBITS IMPROPER DISPOSAL

IF FOUND, CONTACT THE NEAREST POLICE, OR

PUBLIC SAFETY AUTHORITY, OR THE

U.S. ENVIRONMENTAL PROTECTION AGENCY

GENERATOR INFORMATION:

NAME M.C. ROSE

ADDRESS 500 W. MCKISSACK

CITY HOLDEN STATE MD

EPA ID# A-2524 MANIFEST DOCUMENT NO. -

DATE REMOVED FROM SERVICE DATE PLACED IN STORAGE

DATE PLACED IN STORAGE 6-28-84

TOTAL WT. IN KILOGRAMS 530

CONTAINS HAZARDOUS OR TOXIC WASTES

HANDLE WITH CARE!

PROPER D.O.T.
SHIPPING NAME

DRUM # 18306
WASTE POLYCHLORINATED BIPHENYLS UN 2315

ORM-E



HAZARDOUS WASTE

FEDERAL LAW PROHIBITS IMPROPER DISPOSAL

IF FOUND, CONTACT THE NEAREST POLICE, OR

PUBLIC SAFETY AUTHORITY, OR THE

U.S. ENVIRONMENTAL PROTECTION AGENCY

GENERATOR INFORMATION:

NAME _____

ADDRESS _____

CITY _____

EPA ID# CS-15001-A

DATE REMOVED _____

FROM SERVICE _____

STATE _____

MANIFEST DOCUMENT NO. - 1019

DATE PLACED _____

IN STORAGE 2-4-85

TOTAL WT. IN KILOGRAMS _____

CONTAINS HAZARDOUS OR TOXIC WASTES

HANDLE WITH CARE!

Amended and Adopted
April 30, 1987

CHARTER
STEERING COMMITTEE
ROSE CHEMICALS COMPANY CLEANUP
HOLDEN, MISSOURI

The Rose Chemicals Steering Committee (Steering Committee) shall be composed of those entities whose authorized representatives have signed the Agreement Among Potentially Responsible Parties At The Martha C. Rose Chemicals, Inc. Site ("PRP Agreement"), the CSI/PRP Agreement, Contract No. CSI-PRP-863, Governing Services Related to Cleanup of Rose Chemicals Site at Holden, Missouri, and government settlement agreements applicable to the Rose Chemicals Company site (if offered an opportunity to do so after March 1, 1987), and American Can Packaging, Inc., City of Garland, Texas, and the National Rural Electric Cooperative Association ("NRECA"), which shall be entitled to vote subject to the terms of the Charter and PRP Agreement. The Western Area Power Administration ("WAPA") shall serve ex officio as a Steering Committee member and shall not be entitled to vote. Several entities are serving as members of the Steering Committee, at least in part, as representatives of other similarly situated entities, including: American Can Packaging, Inc. (small non-utility generators), Campbell Soup Company (non-utility generators), City of Garland (mid-sized utility generators), NRECA (utility cooperatives), and WAPA (federal entities). For purposes of this Charter, New Orleans Public Service Inc. and Louisiana Power & Light Company shall constitute one Steering Committee Member. Members of the Steering Committee will be deleted or added by amending this Charter in the manner described herein.

The Steering Committee will act on behalf of all Potentially Responsible Parties (PRP's) in an equitable and reasonable manner to assure the prompt and thorough cleanup of the Rose Chemicals, Inc. site in Holden, Missouri and to accomplish that at as reasonable a cost as possible to the PRP's consistent with all environmental regulations.

The members shall elect a Chairman/PRP Executive (PRPE) and Vice Chairman to represent the Steering Committee.

Further, the Steering Committee has retained Clean Sites, Inc., (CSI) to manage the planning and day-to-day execution of the work under the guidance of the Steering Committee. The PRPE shall have authority to represent the Steering Committee. The Vice Chairman of the Steering Committee shall act on the behalf of the PRPE during the periods when the PRPE is unavailable. The Vice Chairman of the Steering Committee shall become the PRPE and Chairman of the Steering Committee if the PRPE is unable to fulfill the required duties -- at such time the Steering Committee shall elect a new Vice Chairman.

The contacts between CSI and the PRP's will be through the PRPE and the PRPE shall be directed by the Steering Committee. The PRPE shall authorize all payments to consultants, contractors, subcontractors, common counsel, and other PRP's, where approval of such payments has been given by the Steering Committee or an individual delegated by the Steering Committee to provide such approval. Final control of all matters is vested in the

Steering Committee. A Technical Subcommittee and a Legal Subcommittee will be constituted from designated representatives from the Steering Committee companies. These two subcommittees will provide advice, review and recommendations to the Steering Committee regarding technical and legal matters, respectively, pertaining to the functioning of the Steering Committee. An Audit Subcommittee will be constituted from designated representatives from the Steering Committee members. The Audit Subcommittee shall be responsible for conducting an annual fiscal audit of all matters related to the Rose Chemicals Administrative Fund. CSI will promptly identify and select contractors to be employed to clean up the subject site, with input from the Technical Subcommittee. Steering Committee approval will be required for items which result in expenditures greater than \$50,000.

To the extent feasible, the Steering Committee shall not enter into nor authorize any Steering Committee members to enter into any contract containing terms that either (1) hold each of the individual Steering Committee members jointly and severally liable for obligations related to or arising out of the contract, or (2) require Steering Committee members to indemnify any consultant, contractor, or subcontractor for any liabilities, including, but not limited to, liability related to or arising out of the performance of the contract. The Steering Committee shall include in any contract or agreement entered into hereunder with a consultant, contractor, subcontractor or other person (herein a "contractor") the following provision:

Contractor agrees that, unless otherwise specifically exempted, this contract will be performed in full compliance with all applicable equal opportunity requirements including, but not limited to, Executive Order 11246 (41 C.F.R. 60-1 and 60-2), relating to equal employment opportunity and non-segregated facilities; Executive Order 11625 (41 C.F.R. 1-1.13), relating to the utilization of minority business enterprises; the Vietnam Era Readjustment Assistance Act of 1974, and Executive Order 11701 (41 C.F.R. 60-250), relating to the employment of Veterans; the Rehabilitation Act of 1973, and Executive Order 11758 (41 C.F.R. 60-741), relating to the employment of handicapped persons; Executive Order 11411 prohibiting discrimination upon the basis of age; and all amendments thereto and all regulations, rules, and orders issued hereunder.

The Steering Committee will assess each of the Steering Committee members, with the exception of Missouri Public Service, Campbell Soup Company and the National Rural Electric Cooperative Association, an initial fee of \$6,000 and will assess American Can Packaging, Inc. and City of Garland and each of the other small quantity generators an initial fee of \$200 to establish an initial working capital fund. Other assessments will be made of Steering Committee members as needed to provide funds for site stabilization and cleanup-related activities prior to development of allocation formulae. These interim assessments will be credited to the financial responsibilities of the members as determined by the allocation formulae described herein.

The Steering Committee will develop an allocation formula to be used to assess the PRP's for funding of the activities of the Steering Committee. All PRP's will be advised of their respective percentage of the cost of the activities supporting cleanup and restoration of the site.

Each member of the Steering Committee shall have one vote. The Committee's decisions will be reached by a consensus. If consensus cannot be achieved, a majority of the members of the Steering Committee will decide the issues. In the event of a tie, the Chairman will cast the deciding vote. Any member of the Steering Committee may withdraw from the Steering Committee pursuant to the terms of the PRP agreement.

The Chairman of the Steering Committee will have the authority to call meetings with ten (10) working days notice and to conduct business. All meeting notices shall be given either personally, by telephone, or by mail or other means of written communication. Steering Committee members shall be given ten (10) working days notice prior to being expected to vote on allocation formulae, approval of assessment fees, entering into any agreement with any government entity, or entering into any substantial contract. Minutes shall be made of meetings, conference calls and all other significant proceedings of the Steering Committee and shall be distributed promptly after any such proceeding to all of its members, who shall have five (5) working days commencing upon receipt to object to or to correct their content. The Steering Committee shall allow all members access to all information obtained in the course of carrying out its duties and responsibilities under this Agreement.

All members not more than sixty (60) days in arrears in their assessed financial responsibilities will be able to vote on all matters coming before the Steering Committee. Any member more than sixty (60) days in arrears in its assessed financial responsibilities ("member in default") will have its right to vote suspended as to matters regarding expenditures of funds, assessment of fees, or allocation formulae, and any other types of matters judged appropriate by the members of the Steering Committee.

Any member, except NRECA, American Can Packaging, Inc. and City of Garland and other small quantity generators designated after March 1, 1987, who has failed to execute (1) all United States Environmental Protection Agency-issued settlement agreements, if provided an opportunity by EPA to do so after March 1, 1987, (2) agreements between the PRP's after March 1, 1987, and (3) the CSI Agreement, when a two-thirds majority of the Steering Committee has executed such agreements, will lose its voting rights for any matters regarding expenditures of funds, assessment of fees, or allocation formulae, and any other types of matters judged appropriate by the members of the Steering Committee.

Membership of parties joining the Steering Committee after May 22, 1986 will become effective after such parties have executed all appropriate agreements with other PRP's and fulfilled all financial responsibilities assessed of other similar PRP's.

The Steering Committee will review and approve any Administrative Order which EPA might issue with regard to the cleanup. Concomitant therewith, the Steering Committee will review and implement, where necessary, activities regarding joint funding by EPA, applicable legal theories and defenses, indemnification of the PRP's and the liability of the small PRP's. It will also address other recommendations of the Technical, Legal, and Audit subcommittees with regard to items within their areas of expertise.

The Steering Committee agrees that appropriate financial compensation will be made available to the PRPE to maintain the documents described in Article 6 of CSI Contract Number CSI-PRP-863, if such documents are transferred by CSI to the PRPE.

This Charter was adopted by approval of the Steering Committee at its meeting held on May 22, 1986. This Charter may be amended by approval of two-thirds of the Steering Committee members then authorized to vote.

RISE CHEMICALS STEERING COMMITTEE ASSESSMENT
 CLEAN SITES, INC.
 MAY 11, 1987

	(A)	(B)	(C)	(D)
			[(A)-WT OF CO SPRINGS] X .4065 (see Note 1)	(\$700,000/3,230,782) X (C)
COMPANY NAME	TOTAL WEIGHT (IN POUNDS)	AMOUNT PAID TO DATE	ADJUSTMENT TO REACH 40.65 CENTS PER POUND	TOTAL ASSESSMENT DUE
NEW ENGLAND POWER SERVICE CO	2,054,942	146,000	\$1,014,540	\$219,816
COMMONWEALTH Edison	1,492,364	146,000	\$460,652	\$99,808
IONA PUBLIC SERVICE CO	1,370,620	146,000	\$411,167	\$87,016
KANSAS POWER & LIGHT	1,311,791	146,000	\$387,249	\$83,904
ILLINOIS POWER	1,049,667	146,000	\$280,696	\$60,817
SOUTHWESTERN ELECTRIC POWER CO.	751,883	146,000	\$159,647	\$34,590
OMAHA PUBLIC POWER	675,853	146,200	\$128,741	\$27,894
INTERSTATE POWER	578,451	146,000	\$89,147	\$19,315
WEST TEXAS UTILITIES	549,047	146,000	\$77,194	\$16,725
OKLAHOMA GAS & ELECTRIC	540,092	146,000	\$73,554	\$15,937
LOUISIANA POWER/NEW ORLEANS PUBLIC SVC	503,863	146,000	\$58,827	\$12,746
CENTRAL LOUISIANA ELECTRIC CO (CLECO)	480,821	146,000	\$49,460	\$10,716
MISSOURI PUBLIC SERVICE	415,730	146,000	\$23,001	\$4,983
GENERAL MOTORS	400,744	146,000	\$16,909	\$3,664
COLO SPRINGS DEPT OF PUBL UTILITIES	359,148	146,000	\$0	\$0
	13,335,024	\$2,190,200	\$3,230,782	\$700,000 *****

Note 1: Colorado Springs is used as base case for all companies. Currently they are paying 40.65 cents per pound of waste. (\$146,000 paid/359,148 total pounds)
 Once the companies have paid the amount in this column, all companies will be paying at the rate of 40.65 cents per pound.

DECEMBER 11, 1986

Atty. General Says Company Polluted Creek

State Files Lawsuit Against PCB Firm

Missouri Attorney General William C. Webster filed suit against Martha C. Rose Chemicals, Inc., in Johnson County Circuit Court last Wednesday alleging that the company polluted a stream near Holden with PCBs.

The lawsuit also charges that the company's president, Walter C. Carolan, has transferred the assets of Rose Chemicals among several other companies that he owns in a way that violates Missouri corporate law.

As a result, Walter C. Carolan and three other companies to which he might have transferred Rose Chemical's assets were also named as defendants in the suit. The three companies owned and operated by Carolan are American Steel Works,

Inc., W. C. Carolan, Co., Inc., and Dust Suppression Systems, Inc.

Although the company had permits from the EPA to process and dispose of PCBs, the petition alleges that this processing went beyond the scope of its Missouri charter. Also the petition alleges that Rose Chemicals discharged contaminants without the proper state permit as required by the Clean Water Law and more importantly that this discharge resulted in the contamination of state waters.

According to the petition, the Missouri Department of Natural Resources received on May 16 a complaint about a possible leak at the Rose Chemicals plant. A DNR investigation of this complaint led to the discovery of a tank trailer that had been leaking contaminated waste oils.

The oil, contaminated with PCBs, was continuing to make its way into a nearby stream, which empties into Pin Oak Creek, a tributary to the Blackwater River.

The petition states that a former employee of Rose chemicals told investigators that the spill had occurred on May 14, 1986. This spill evidently occurred directly over a manhole that drained through a sewer into the nearby stream. Samples were taken at various points along the suspected spill route and along the stream and were found to contain PCBs.

Attorney General Webster requests an order for preliminary and permanent injunctions to force the defendants to secure all PCB contaminants at the Holden site, as well as to remove all tanks, trucks and other vessels, which are contaminated and still at the plant. The petition also asks the court to impose penalties of \$10,000 for each day there is a violation of Missouri's Clean Water Law and to award actual damages by holding the companies responsible for costs and expenses to restore the stream and other contaminated waters to their original condition.

PCBs were banned in 1977 by the EPA after studies linked them to skin and liver disease, birth defects and cancer. The heat resistant compounds were used principally in coolant oil for transformers, capacitors, and other electrical equipment. PCBs fall under regulations of the federal Toxic Substance Control Act.

In March of 1982, the EPA gave Rose Chemical approval to process and dispose of PCBs at its plant in Holden and later gave further approval for the company to decontaminate electric capacitors and transformers.

Rose Chemicals ceased operations on Feb. 28, 1986, and is currently going through bankruptcy proceedings. But twice during its operation, the EPA cited the company for violations of federal regulations, once in March, 1984, and again in February, 1985.

This summer, the EPA revoked several permits issued to Rose Chemicals for its failure to correct and prevent violations of federal regulations at the plant.

The EPA is working to contain and dispose of all PCBs and contaminated materials at the Holden site.



Elaine Viets

Paperwork Has Longer Half-Life Than Waste

BRIAN GOT A letter from the government calling his corporation a PRP. He felt sick.

That's because the letter said a PRP was a Potentially Responsible Party.

Even worse, it said he was a PRP under CERCLA, amended by SARA.

Even when I read the letter's explanation, I couldn't figure out what that was. See if you can:

"This action is being taken pursuant to Section 104 and other provisions of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) codified at 42 USC. . . ."

You get the idea. Someone could call me a PRP under CERCLA all day, and it wouldn't bother me.

But Brian can understand federalese. He showed me the scary-looking letter from the Environmental Protection Agency. It was stamped CONFIDENTIAL and sent by certified mail.

Brian said, "Sometime between 1963 and 1977, my corporation paid an approved hauler to take low-level nuclear waste to an approved site at Maxey Flats, Ky.

"Now the Hazardous wastes were leaking out. The EPA was investigating. And because we generated that waste, they said we would have to help pay for the cleanup."

As a PRP, the letter said he could be stuck for the cost of "investigation, planning, cleanup of the site and enforcement activities."

Visions of Times Beach danced in his head.

Brian's company had 90 days to undertake an RI/FS.

That's a Remedial Investigation and Feasibility Study.

The letter got worse.

It said some 4.75 million cubic feet of waste were in Maxey Flats.

It might cost \$30 million or more to clean up the mess.

To find out how much nuclear waste his corporation had unleashed on Kentucky, Brian had to read Attachment A.

Attachments A, B and C were on red, white and blue paper. They came to 263 pages. There were 832 PRPs.

Brian was so scared, he could hardly turn the pages. How many millions would his company owe?

"I finally found out," he said.

"We had contributed less than 0.0001 percent of the hazardous waste. That's 6 cubic feet."

Brian stopped sweating. "I figured we could solve this pretty easy.

"So I called the EPA in Atlanta and said, 'According to your own calculations, it will cost \$30 million to clean up the mess. Our contribution of less than 0.0001 percent comes to \$30. It will cost a lot more if our lawyers look this over.

"So why don't I send you a check for \$30 and we'll forget about it?"

"The guy at the EPA said he couldn't do that.

"So I said, 'What if your calculations are wrong? Suppose it turns out to cost twice that much? I'll send you a check for \$60.'"

"The EPA guy said they couldn't do that, either.

"He said we had to follow procedure. This 0.0001 percent of waste is going to take hundreds of hours of work. I thought I could cut through the red tape."

Brian talked with the director of the Waste Management Division. He reports to the director of the Division of Waste Management.

The EPA waste man tried to explain to me why Brian couldn't send a \$30 check.

He sounded just like the letter. From what I can figure out, there will be a welter of meetings, memos and official summery with the PRPs and the EPA. If the PRPs throw up their hands, the EPA will clean up the site.

Five minutes later, the EPA waste man was still explaining: "Then we go back again to the responsible parties, and ask, 'Are you willing to clean it up yourself?' It will take 60 to 90 days to negotiate.

"If they can do it, fine.

"If not, we can. Then we go to the parties responsible, and assess them for damages."

Why not take Brian's money now?

"Because we're in the negotiating phase."

But Brian doesn't want to negotiate. He wants to send you money.

The EPA man said he understood there are a "lot of people with minimal involvement. Eventually, we will separate the responsible parties into major or minimal. Then we'll say to the minimalists, 'Let's settle up front.'"

But that's what he wants to do now.

"But it's too early to send a check."

Brian remained puzzled. "Some of the low-level waste we sent there has a half-life of a few days," he said. "The paperwork will last a lot longer."